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**RONAN TELEPHONE COMPANY**

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DEC 19 2002

FCC - MAILROOM

December 18, 2002

The Honorable Michael K. Powell  
Chairman  
Federal Communications Commission  
445 12th Street, SW, Room 8 B201  
Washington, DC 20554

The Honorable Kathleen Q. Abernathy  
Commissioner  
Federal Communications Commission  
445 12th Street, SW, Room 8 B1 15  
Washington, DC 20554

The Honorable Michael J. Copps  
Commissioner  
Federal Communications Commission  
445 12th Street, SW, Room 8 A302  
Washington, DC 20554

Re: In the Matter of the Application by Qwest Communications International, Inc.  
For Authorization Under Section **271** of the Communications Act to Provide  
In-Region, **InterLATA** Service in the States of Colorado, Idaho, Iowa, Montana,  
Nebraska, North Dakota, Utah, Washington, and Wyoming,  
WC Docket Nos. 02-314, 02-189, and 02-148

Ex Parte Presentation

Dear Commissioners:

The following newly discovered information is provided to the Commission pursuant to the FCC ex parte rules, so that it can be considered prior to reaching a decision on the pending Qwest 271 application. A copy of this letter is being sent to the Commission Secretary, Commission Staff, the Department of Justice, as listed below and provided in the Commission Notice (DA- 02-2438).

We write to inform policy-makers at the FCC and Department of Justice, of information our firm has very recently discovered, that should be of interest in your deliberations in the Qwest 271

Application. We believe this information is worthy of further investigation to determine whether Qwest has been providing in-region long distance service prior to receiving 271 approval.

Ronan Telephone Company (RTC) is a family-owned, community-based ILEC serving two small communities on the Flathead Indian Reservation in Western Montana. RTC operates an access tandem voice ILEC switch that has separate trunk group connections to Qwest and nine InterLATA long distance voice carriers (AT&T, MCI-WorldCom, Sprint, etc.). RTC also provides tandem switching services for Hot Springs Telephone Company (HSTC), another small ILEC serving a third community on the Flathead Indian Reservation.

Since June of 1998, when RTC implemented tandem switching functions, essentially all InterLATA (Montana has two LATAs) and interstate traffic originated from, and terminated to, the three exchanges subtending our access tandem, has been carried by AT&T, MCI-WorldCom, Sprint, and other IXCs.<sup>1</sup> Consequently, and in light of the intraLATA restriction on Qwest traffic, RTC and HSTC have logically assumed that all traffic terminated to our local exchanges from Qwest is Intrastate IntraLATA, and therefore properly billed under Intrastate tariff rates. Since 1998, Qwest has refused to fully pay for the traffic it sends over its trunk group to be terminated to RTC and Hot Springs exchanges. The unpaid terminating access over the Qwest trunk group has been the subject of ongoing litigation (including six other Montana ILECs) which remains unresolved.<sup>2</sup>

In October of this year, following a reversal and remand by the U.S. Ninth Circuit Court of Appeals in the intrastate access charge dispute litigation, RTC began preparing to initiate settlement discussions with Qwest. In this process, we noticed that the traffic volume sent to our firms by Qwest on the IntraLATA trunk group in September was more than double the traffic in August (which represented a typical traffic volume from Qwest over many months), and has grown by an average rate of 12% in October and November (See Chart 1 enclosed). Upon further investigation, we

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<sup>1</sup> The connections between the Ronan Tandem switch and Qwest, AT&T, MCI et. al., are Feature Group D, T-1 trunk groups with common channel signalling (SS7). This allows RTC to record the calling number on each call in real time for access billing purposes. With the calling number, RTC can distinguish between IntraLATA calls and InterLATA calls by keying on the calling area code and prefix of each call. Any small ILEC interconnecting with Qwest utilizing Feature Group C trunking (most small ILECs in the intermountain west are still forced to use this arrangement by Qwest) would be unable to make this distinction and could not determine the jurisdiction of the call. In Montana, where Qwest has refused to pay state access charges for much of the traffic terminated to Montana's small rural ILECs since 1998 (and in other states where this may be occurring), Qwest could terminate large quantities of Interstate traffic to rural carriers with a high probability that the typical rural ILEC would neither recognize that Interstate traffic was being sent to them, nor expect payment until after the state access charge dispute is settled. In other words, it could be a way for Qwest to obtain free Interstate Access services in rural areas, in violation of FCC approved tariffs, the filed-rate doctrine, Federal Access policy, and competitive equity principles.

<sup>2</sup> *3 Rivers Telephone Cooperative et. al. v. U S West Communications*, Case No. 01-35065, Memorandum Opinion, August 27, 2002 (U.S. Ninth Circuit Court of Appeals); now pending on remand to the U.S. District Court in Montana.

discovered that approximately 56% of the increase in traffic volume represented calls that originated from outside the state of Montana (See Chart 2); and this increased the Average Percent Interstate Usage factor (PIU) on the Qwest trunk group from an insignificant 4% between February and July to an average of over 35% Interstate in September, October and November (See Chart 3). This was very surprising, because it is our understanding that Qwest is not allowed to carry in-region Interstate toll traffic until it receives approval to do so under Section 271.

Upon further investigation of the Call Record data supplied by Qwest<sup>3</sup> we discovered that approximately 86% of the Interstate traffic delivered for termination by Qwest to RTC and HSTC in August, September, October and November of this year originates from Qwest's Carrier Code "CIC 0432" (See Chart 4). However, in July of this year, RTC had received a letter from Qwest (copy enclosed) stating that:

Qwest Corporation has filed with the FCC for authorization to provide interLATA toll services in five of its states within the 14 states of Qwest's serving area and will soon file for authorization in other of its states. Qwest's interLATA retail toll carrier is a separate subsidiary of Qwest under Section 272 of the Telecommunications Act of 1996, and has been assigned a CIC of 0432. This CIC 0432 toll carrier will likely be ordering FGD access services from your company via the ASR process. At the same time, Qwest's existing intraLATA retail toll service will continue to be offered, and the traffic originated by Qwest's existing intraLATA toll carrier will continue to be delivered to your company over FGC trunks. . . .  
Letter from Qwest to Jay Preston, July 18, 2002.

A manual scan of the call record data has revealed that the traffic from Qwest on Carrier CIC 0432 includes traffic from all across the nation, *including from within Qwest's 14 state region*. Thus, not only does the access billing need to be adjusted to reflect interstate rates for interstate traffic (that was always appropriately assumed to be intrastate), but the question arises as to what proportion of this traffic is being carried by Qwest in violation of Section 271.

The following documents are enclosed herein:

Letter from Qwest to Jay Preston, President of Ronan Telephone Company, dated July 18, 2002

Chart 1: Graph of Total Access Minutes of Use (MOU)- Qwest Trunks to Ronan and Hot Springs.

Chart 2: Graph of Total Qwest Access MOU to Ronan and Hot Springs shown by Jurisdiction.

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<sup>3</sup> The data described above was recorded and analyzed by RTC, whereas the final step in the analysis was based on data supplied by Qwest.

Chart 3: Graph of Percent Interstate Useage (PIU) on Qwest Trunks to Ronan and Hot Springs.

Chart 4: Graph Comparing Interstate MOU from Carrier 0432 to Total Interstate MOU on Qwest Trunks to Ronan and Hot Springs.

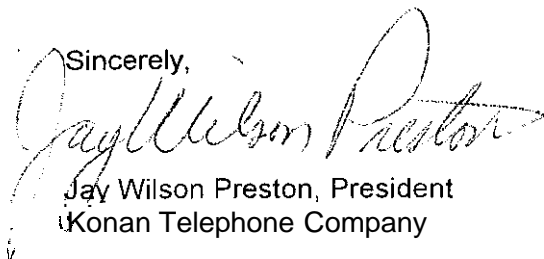
(Charts 1-4 include data for each month, from February through November, 2002)

We hope this information is helpful in your deliberations on the many complex issues involved in considering the Qwest 271 application. If further investigation confirms that in fact Qwest has carried interstate traffic in violation of Section 271 (which is the legacy of past Anti-trust violations), we believe that 271 approval should be withheld in the current proceeding.

We are available at any time to answer your questions or provide any further information which we may be able to provide. Please contact Jay Preston, President of Ronan Telephone, at 406-676-9212, or our regulatory attorney, Ivan C. Evilsizer, at 406-442-7115.

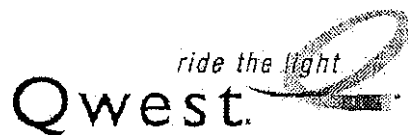
Thank you for your attention to this matter.

Sincerely,



Jay Wilson Preston, President  
Ronan Telephone Company

cc: William Maher  
Gary Remondino  
Elizabeth Yockus  
Jordan Goldstein  
Daniel Gonzalez  
Christopher Libertelli  
Lisa Zaina  
Nancy M. Goodman, U.S. Department of Justice  
Mr. Ryan Harsch, U.S. Department of Justice  
Montana Public Service Commission



July 16, 2002

Jay Preston  
Ronan Telephone  
312 Main Street SW  
Ronan, MT 59664  
USA

To: Jay Preston

Effective Date:	Immediately
Document Number:	GENL.07-16-02.A000424.Carrier-Access-Billing
Notification Category:	General Notification
Target Audience:	ILECs
Subject:	Advisory for Carrier Access Billing

Qwest Corporation has filed with the FCC for authorization to provide **interLATA** toll services in five of its states within the 14 states of Qwest's serving area and will Soon file for authorization in other of its states. Qwest's **interLATA** retail toll carrier is a separate subsidiary of Qwest under Section 272 of the Telecommunications Act of 1996, and has been assigned a CIC of 0432. **This** CIC 0432 toll carrier will likely be ordering FGD access services from your company via the ASR process. **At** the same time, Qwest's existing **intraLATA** retail toll service will continue to be offered, and **the** traffic originated by Qwest's existing **intraLATA** toll carrier will continue to be delivered to your company over FGC trunks. This letter is to advise you that the access services provided to Qwest's CIC 0432 toll carrier must be billed separately and sent to a different address than the access billing for access services provided to Qwest's existing **intraLATA** retail toll carrier.

While both the 0432 toll carrier and the existing **intraLATA** toll carrier are Qwest entities, the provisions of Section 272 require that the handling and payment of access billing from your company be handled separately by the two toll carriers. ~~The billing~~ group which handles access billing rendered by your company to Qwest's existing **intraLATA** (FGC) toll carrier is not allowed to handle access billing rendered by your company to Qwest's CIC 0432 toll carrier and vice versa.

We expect that you will receive information from Qwest's CIC 0432 toll carrier in the future containing that carrier's access billing contact and address information.

Please continue to send access billing for Qwest's existing **intraLATA** toll carrier (FGC-type toll traffic) to the Minneapolis address as you have done in the past. If your company's access billing is performed on your behalf by a service bureau, please forward a copy of this letter to your access billing service bureau

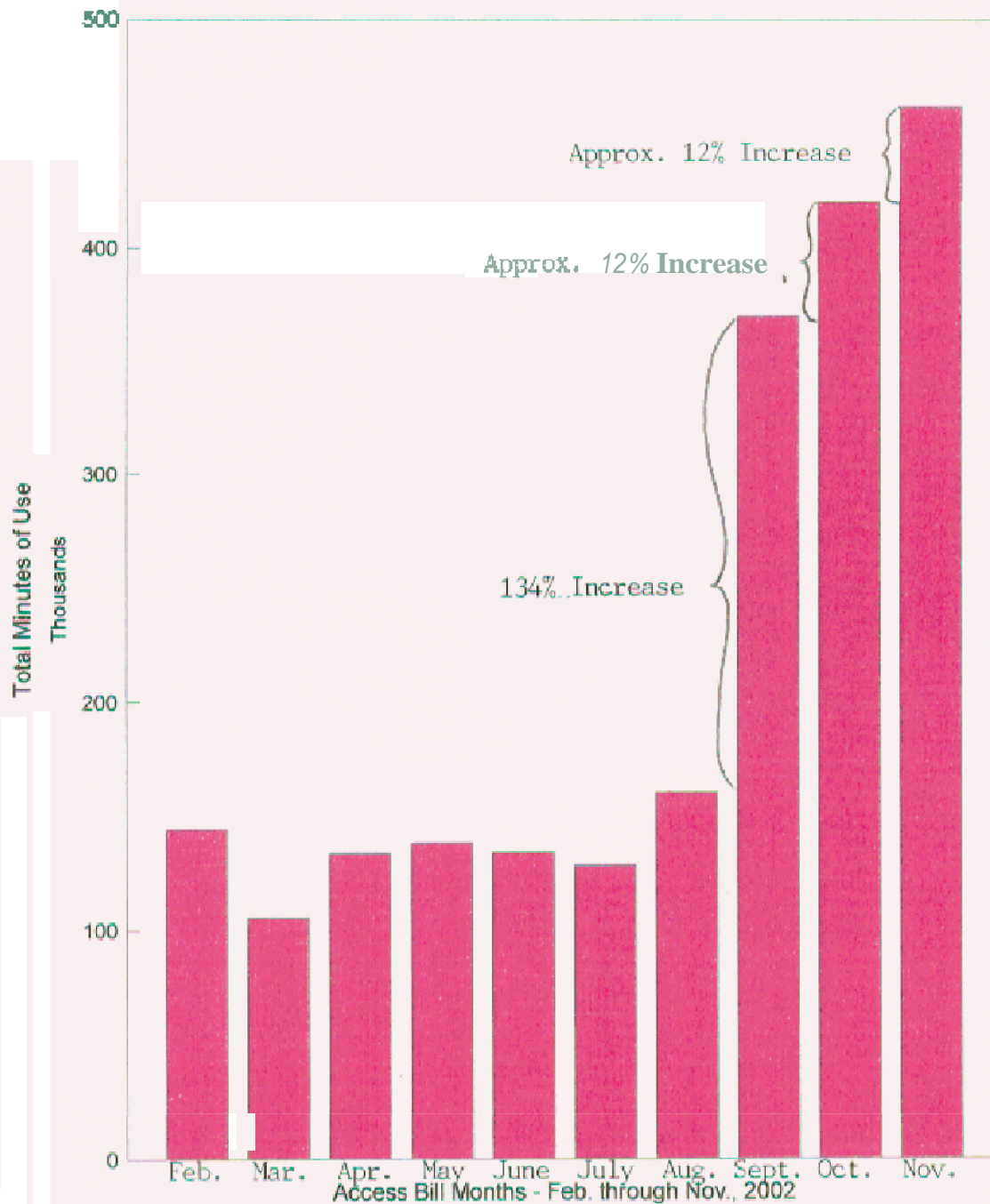
If you have any questions regarding this please do not hesitate to contact your Qwest Sales Executive, Tamah Matejka on (303) 541-5019

Sincerely

Qwest

## Ronan Tel. Co. & Hot Springs Tel. Co.- Chart 1

Measured Total Access Minute on Qwest IntraLATA Trunks

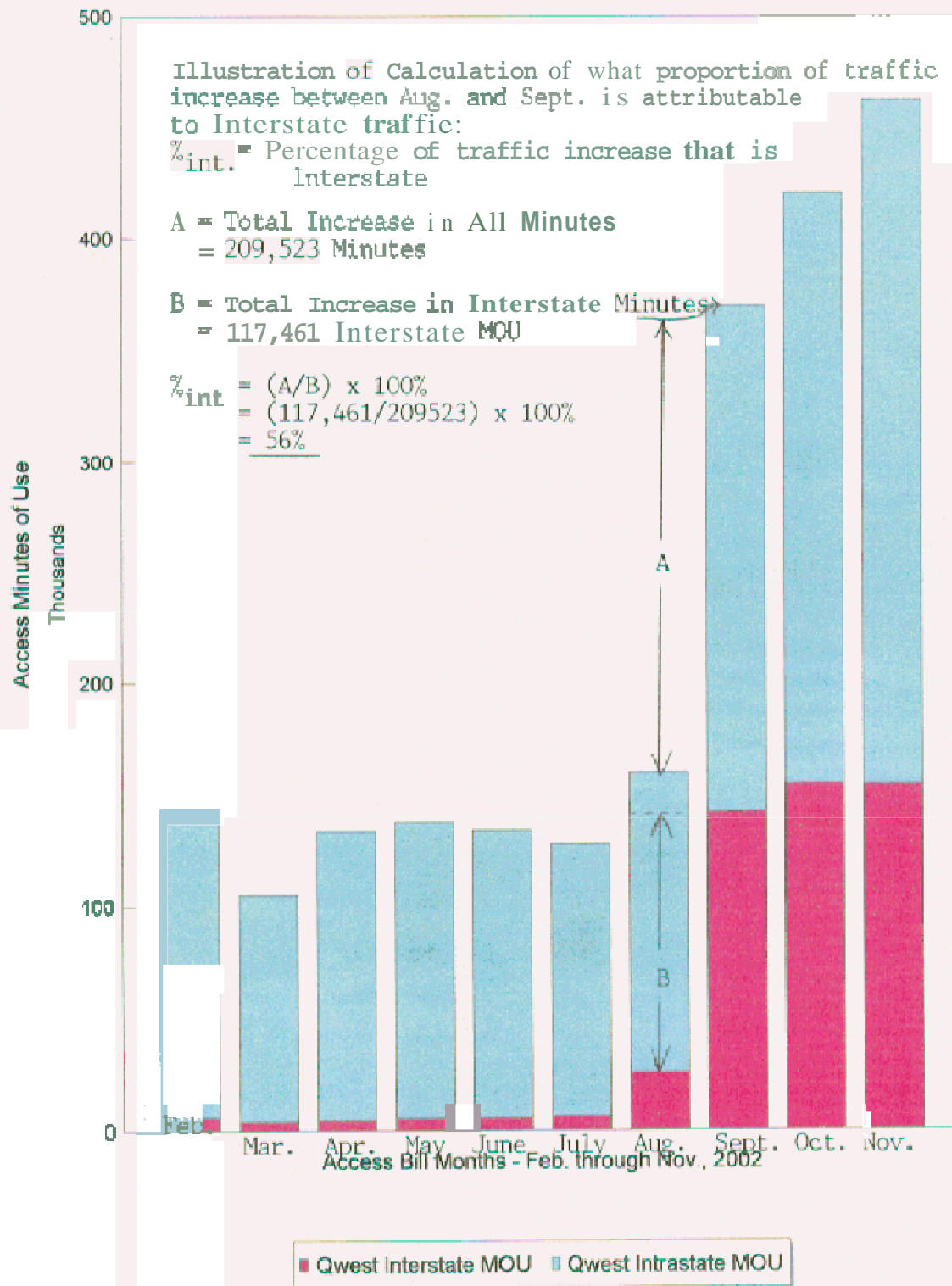


■ Total Monthly Access Minutes of Use - Qwest IntraLATA Trunks

100 % of Traffic on Qwest Trunk Group Originates from or is transited through Qwest's Network and is Terminated by RTC and HSTC

## Ronan Tel. Co. & Hot Springs Tel. Co. - Chart 2

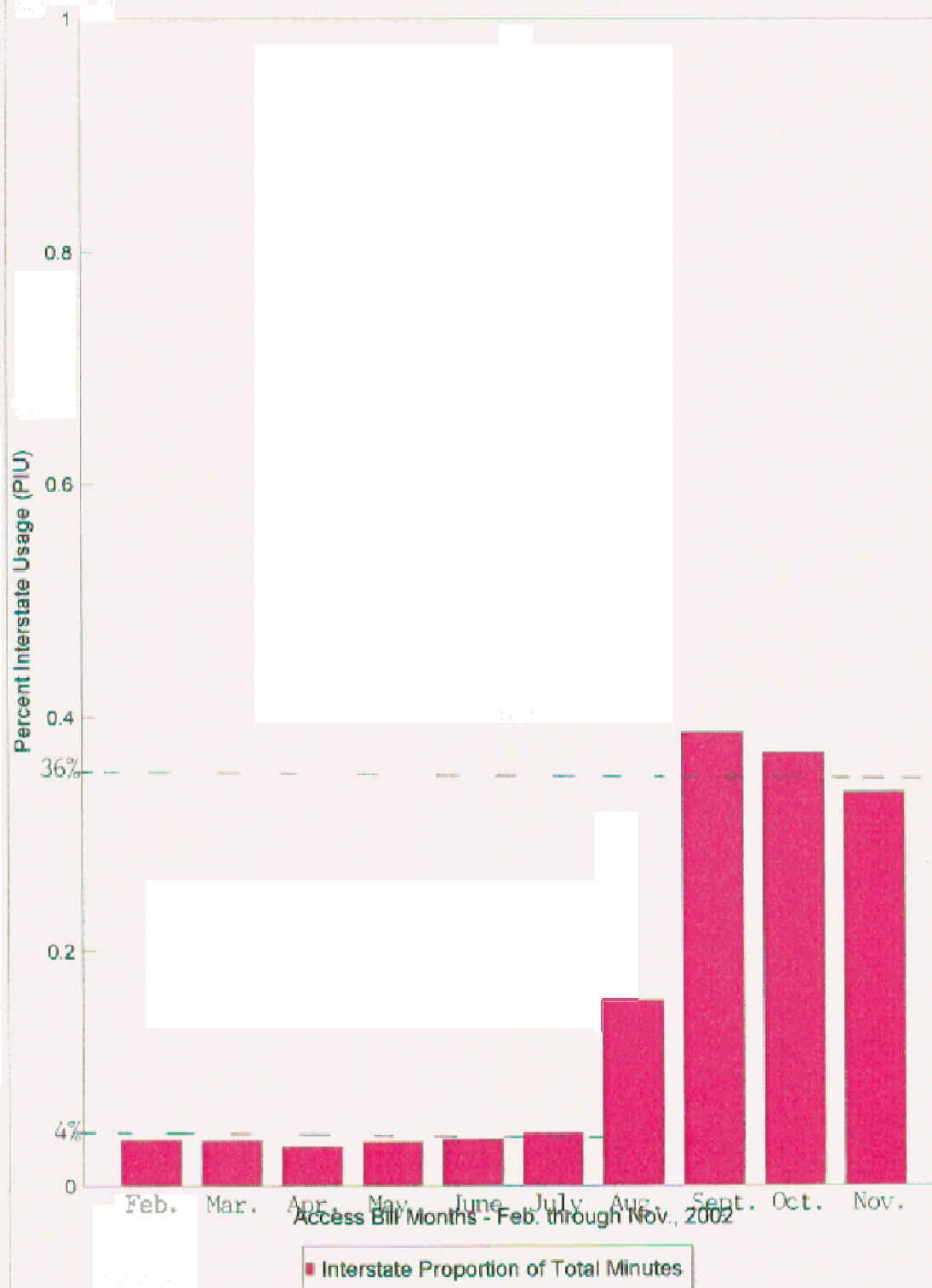
Minutes of Use by Jurisdiction on Qwest Trunks



100 % of Traffic on Qwest Trunk Group Originates from or is transited through Qwest's Network and is Terminated by RTC and HSTC

## Ronan Tel. Co. & Hot Springs Tel. Co. - Chart 3

Interstate Minute Growth on Qwest Trunks - Percent of Total

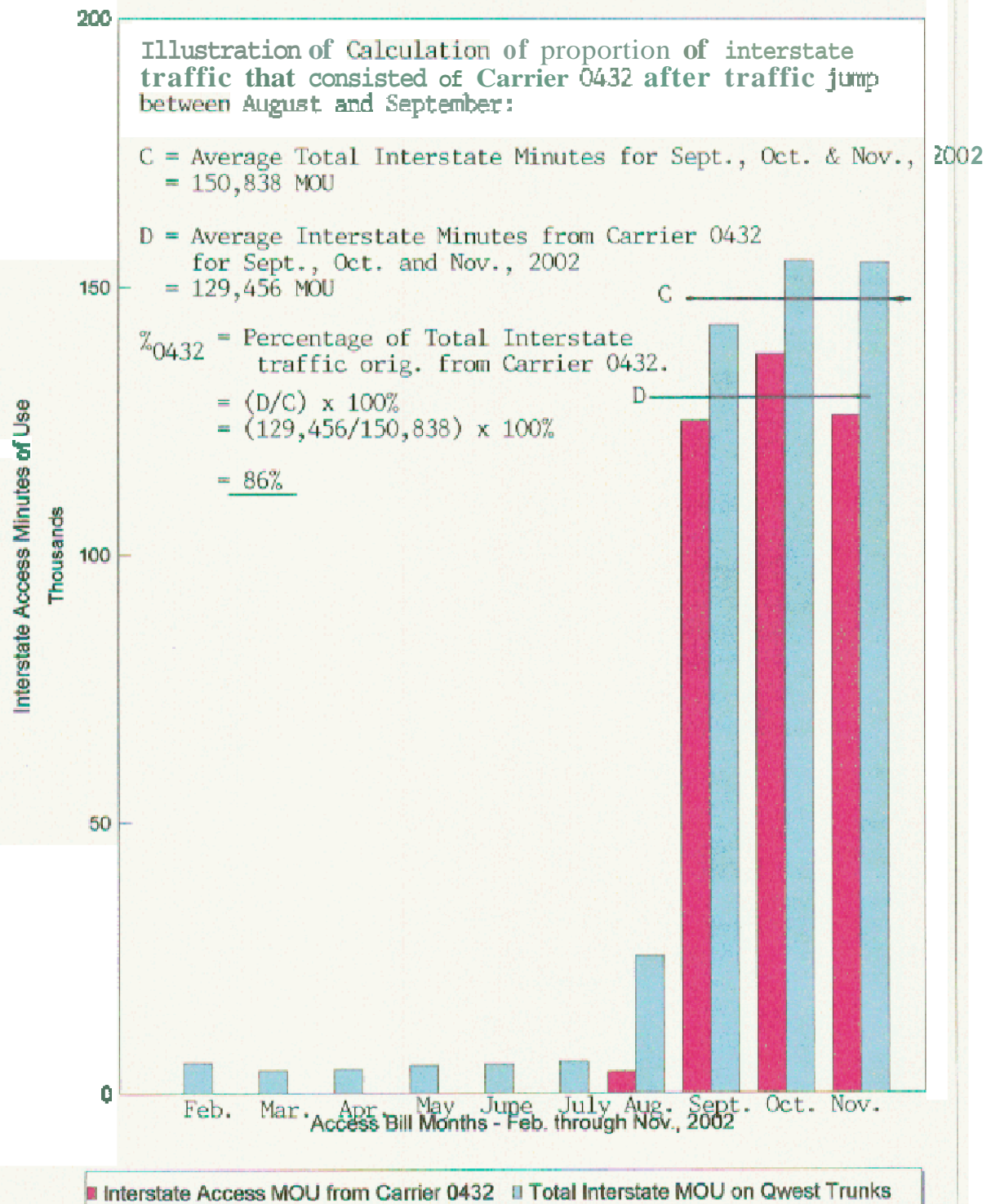


100 % of Traffic on Qwest Trunk Group Originates from or is transited through Qwest's Network and is Terminated by RTC and HSTC



## Ronan Tel. Co. & Hot Springs Tel. Co. - Chart 4

Interstate Access MOU for Carrier #0432 vs. Total Interstate MOU on Qwest Trunks



100 % of Traffic on Qwest Trunk Group Originates from or is transited through Qwest's Network and is Terminated by RTC and HSTC